

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Brian Whitaker,**  
Plaintiff,

v.

**Kyo-Ya Hotels & Resorts, LP;**  
Defendants

**Case No. 4:21-cv-00011-DMR**

**First Amended Complaint For Damages  
And Injunctive Relief For Violations Of:**  
Americans With Disabilities Act; Unruh  
Civil Rights Act

Plaintiff Brian Whitaker complains of Kyo-Ya Hotels & Resorts, L.P., a Delaware Limited Partnership ("Defendants"), and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. He is substantially limited in his ability to walk. He suffers from a C-4 spinal cord injury. He is a quadriplegic. He uses a wheelchair for mobility.

2. Defendant Kyo-Ya Hotels & Resorts, LP, a Delaware Limited Partnership owns and operates the Palace Hotel located at 2 New Montgomery St., San

1 Francisco, California, currently and at all times relevant to this complaint.

2 3. Plaintiff does not know the true names of Defendants, their business  
3 capacities, their ownership connection to the property and business, or their  
4 relative responsibilities in causing the access violations herein complained of, and  
5 alleges a joint venture and common enterprise by all such Defendants. Plaintiff is  
6 informed and believes that each of the Defendants herein, including Does 1  
7 through 10, inclusive, is responsible in some capacity for the events herein alleged,  
8 or is a necessary party for obtaining appropriate relief. Plaintiff will seek leave to  
9 amend when the true names, capacities, connections, and responsibilities of other  
10 Defendants are ascertained.

11  
12 **JURISDICTION:**

13 4. The Court has subject matter jurisdiction over the action pursuant to 28  
14 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
15 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

16 5. Pursuant to supplemental jurisdiction, an attendant and related cause of  
17 action, arising from the same nucleus of operative facts and arising out of the same  
18 transactions, is also brought under California's Unruh Civil Rights Act, which act  
19 expressly incorporates the Americans with Disabilities Act.

20 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is founded  
21 on the fact that the real property which is the subject of this action is located in  
22 this district and that Plaintiff's cause of action arose in this district.

23  
24 **PRELIMINARY STATEMENT**

25 7. This is a lawsuit challenging the reservation policies and practices of a place  
26 of lodging. Plaintiff does not know if any physical or architectural barriers exist at  
27 the hotel and, therefore, is not claiming that that the hotel has violated any  
28 construction-related accessibility standard. Instead, this is about the lack of

1 information provided on the hotel's reservation website that would permit  
2 plaintiff to determine if there are rooms that would work for him.

3 8. After decades of research and findings, Congress found that there was a  
4 "serious and pervasive social problem" in America: the "discriminatory effects" of  
5 communication barriers to persons with disability. The data was clear and  
6 embarrassing. Persons with disabilities were unable to "fully participate in all  
7 aspects of society," occupying "an inferior status in our society," often for no other  
8 reason than businesses, including hotels and motels, failed to provide information  
9 to disabled travelers. Thus, Congress decided "to invoke the sweep of  
10 congressional authority" and issue a "national mandate for the elimination of  
11 discrimination against individuals with disabilities," and to finally ensure that  
12 persons with disabilities have "equality of opportunity, full participation,  
13 independent living" and self-sufficiency.

14 9. As part of that effort, Congress passed detailed and comprehensive  
15 regulations about the design of hotels and motels. But, as importantly, Congress  
16 recognized that the physical accessibility of a hotel or motel means little if the 61  
17 million adults living in America with disabilities are unable to determine which  
18 hotels/motels are accessible and to reserve them. Thus, there is a legal mandate  
19 to provide a certain level of information to disabled travelers.

20 10. But despite the rules and regulations regarding reservation procedures, a  
21 2019 industry article noted that: "the hospitality sector has largely overlooked the  
22 importance of promoting accessible features to travelers."

23 11. These issues are of paramount important. Persons with severe disabilities  
24 have modified their own residences to accommodate their unique needs and to  
25 ameliorate their physical limitations. But persons with disabilities are never more  
26 vulnerable than when leaving their own residences and having to travel and stay  
27 at unknown places of lodging. They must be able to ascertain whether those places  
28 work for them.

**FACTUAL ALLEGATIONS:**

12. Due to plaintiff's disability, he is unable to, or seriously challenged in his ability to, stand, ambulate, reach objects mounted at heights above his shoulders, transfer from his chair to other equipment, and maneuver around fixed objects.

13. Thus, Plaintiff needs an accessible guestroom, and he needs to be given information about accessible features in hotel rooms so that he can confidently book those rooms and travel independently and safely.

14. Plaintiff planned on making a trip in October of 2020 to the San Francisco, California, area.

15. He chose the Palace Hotel located at 2 New Montgomery St., San Francisco, California because this hotel was at a desirable price and location.

16. Due to Plaintiff's condition, he is unable to, or seriously challenged in his ability to, stand, ambulate, reach objects, transfer from his chair to other equipment, and maneuver around fixed objects.

17. Thus, Plaintiff needs an accessible guestroom, and he needs to be given information about accessible features in hotel rooms so that he can confidently book those rooms and travel independently and safely.

18. On September 14, 2020, while sitting bodily in California, Plaintiff went to the Palace Hotel reservation website at

<https://www.marriott.com/hotel/travel/sfolc-palace-hotel-a-luxury-collection-hotel-san-francisco> seeking to book an accessible room at the location.

19. This website reservation site was either maintained and operated by the defendant or was run by a third party on the defendant's behalf. It was the official online reservation system for this hotel.

20. Plaintiff found that there was insufficient data or details about the accessible guestrooms to give him the ability to independently assess whether any of the guestrooms worked for him.

21. There were four sources of information on the website that provided

1 information about the accessible features. But these areas provided very little in  
2 the way of actual information and detail.

3 22. Merely labelling something “accessible” is a conclusion or opinion and does  
4 not permit an independent assessment but require a wheelchair user to hope that  
5 the hotel knows what it is talking about.

6 23. This meager information falls far short of what the ADA requires and does  
7 not even come close to meeting the ADA requirement that hotels must not only  
8 identify but “*describe* accessible features in the hotels and guest rooms offered  
9 through its reservations service *in enough detail* to reasonably permit individuals  
10 with disabilities to *assess independently* whether a *given* hotel or guest room  
11 meets *his or her* accessibility needs.” 28 C.F.R. 36.302(e)(1)(ii) (emphasis added to  
12 key words).

13 24. For example, Plaintiff requires a raised toilet so he can safely transfer from  
14 his wheelchair to the toilet. Without this feature, he risks falling. The website does  
15 not mention if the toilet has this feature.

16 25. As another example, Plaintiff has had tremendous difficulty with using  
17 lavatory sinks in the past because the plumbing underneath the sink was not  
18 wrapped with insulation to protect against burning contact to his knees. Here, the  
19 Hotel reservation website provides no information about whether the plumbing is  
20 wrapped with insulation to prevent contact.

21 26. As another example, Plaintiff needs to know that the bed has a compliant  
22 clear space next to it so he can safely transfer from his wheelchair to the bed. Here  
23 the Hotel website provides no information about the accessibility of the clear space  
24 next to the bed.

25 27. Plaintiff does not need an exhaustive list of accessibility features. Plaintiff  
26 does not need an accessibility survey to determine if a room works for him.  
27 Plaintiff, like the vast majority of wheelchair users, simply needs a handful of  
28 features to be identified and described with a modest level of detail:

- 1 • For the doors, Plaintiff simply needs to know if he can get into the hotel  
2 room and into the bathroom. This is a problem that has created tremendous  
3 problems for the Plaintiff in the past. A simple statement that the hotel  
4 room entrance and interior doors provide at least 32 inches of clearance is  
5 enough to provide Plaintiff this critical piece of information about whether  
6 he can fit his wheelchair into the hotel rooms.
- 7 • For the beds themselves, the only thing Plaintiff needs to know (and the  
8 only thing regulated by the ADA Standards) is whether he can actually get  
9 to (and into) the bed, i.e., that there is at least 30 inches width on the side  
10 of the bed so his wheelchair can get up next to the bed for transfer. This is  
11 critical information because Plaintiff cannot walk and needs to pull his  
12 wheelchair alongside the bed.
- 13 • For the desk where Plaintiff will eat and work, Plaintiff simply needs to know  
14 that it has sufficient knee and toe clearance so that he can use it. A simple  
15 statement like “the desk provides knee and toe clearance that is at least 27  
16 inches high, 30 inches wide, and runs at least 17 inches deep” is more than  
17 sufficient. Because Plaintiff is confined to a wheelchair, he needs to know  
18 this information to determine if the desk is accessible to and useable by him.
- 19 • For the restroom toilet, Plaintiff only needs to know two things that  
20 determine if he can transfer to and use the toilet; (1) that the toilet seat  
21 height is between 17-19 inches (as required by the ADA Standards) and (2)  
22 that it has the two required grab bars to facilitate transfer.
- 23 • For the restroom sink, the Plaintiff two things that will determine whether  
24 he can use the sink from his wheelchair: (1) can he safely get his knees under  
25 the toilet? To wit: does the sink provide the knee clearance (27 inches high,  
26 30 inches wide, 17 inches deep) and is any plumbing under the sink wrapped  
27 with insulation to protect against burning contact? The second thing is  
28 whether the lavatory mirror is mounted at a lowered height so that

wheelchair users can sue it. A simple statement like: “the lavatory sink provides knee clearance of at least 30 inches wide, 27 inches tall and 17 inches deep, all of the under-sink plumbing is wrapped, and the lowest reflective edge of the mirror is no more than 40 inches high” would suffice.

- Finally, for the shower, Plaintiff needs to know only a handful of things: (1) what type of shower it is (transfer, standard roll-in, or alternate roll-in), (2) whether it has an in-shower seat; (3) that there are grab bars mounted on the walls; (4) that there is a detachable hand-held shower wand for washing himself and (5) that the wall mounted accessories and equipment are all within 48 inches height.

28. This small list of items are the bare necessities that Plaintiff must know to make an independent assessment of whether the “accessible” hotel room works for him. These things comprise the basics of what information is reasonably necessary for Plaintiff (or any wheelchair user) to assess independently whether a given hotel or guest room meets his or her accessibility needs.

29. Plaintiff first found that there was no specific information about the accessibility of any part or portion of the hotel other than the individual guestrooms. While many hotels will identify and describe accessible features of the parking, public paths of travel, doors, registration desk and pool, this hotel’s reservation website provided no information whatsoever.

30. For example, under a general accessibility tab on the website, outside the reservation system, the hotel lists as “Accessibility”:

31. Merely labelling something “accessible” is a conclusion or opinion and does not permit an independent assessment but require a wheelchair user to hope that the hotel knows what it is talking about.

32. This meager information falls far short of what the ADA requires and does not even come close to meeting the ADA requirement that hotels must not only identify but “describe accessible features in the hotels and guest rooms

offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs.” 28 C.F.R. 36.302(e)(1)(ii) (emphasis added to key words).

33. With few exceptions, the hotel has done nothing more than slap the word “accessible” on all the public areas of the hotel:

Accessibility <span>Close ^</span>		
For more information about the physical features of our accessible rooms, common areas, or special services relating to a specific disability, please call +1 415-512-1111.		
Accessible Areas with Accessible Routes from Public Entrance	Accessible Hotel Features	Guest Room Accessibility
Business Center	Service animals are welcome	Accessible guest rooms with 32" wide doorways
Fitness Center	Valet parking for vehicles outfitted for drivers in wheelchairs	Accessible route from public entrance to accessible guest rooms
Meeting spaces and ballrooms	Elevators	Alarm clock telephone ringers
Pool accessible		Bathroom grab bars
Pool pathway		Bathtub grab bars
Public entrance alternative		Deadbolt locks, lowered
Registration Desk Pathway		Doors with lever handles
Registration desk		Electrical outlets, lowered
Restaurant(s)/Lounge(s)		Flashing door knockers
		Hearing accessible rooms and/or kits
		Roll-in shower
		Shower wand, adjustable
		TTY/TTD available
		TV with close-captioning
		Toilet seat at wheelchair height
		Transfer shower
		Vanities, accessible
		Viewports, lowered

34. But *every* hotel has a business centers, front desks, elevators, exercise facilities, a public entrance, a restaurant, and public routes around the facility. Here, the hotel simply listed every common public areas of its hotel and attached the adjective “accessible” to it or “complies with the ADA” type language.

35. Claiming something is “accessible” is a conclusion or opinion. Persons with disabilities do not have to rely upon the naked judgment or conclusions of the hotel. The ADA specifically mandates that hotels must provide specific information



1 to persons booking their rooms. Under the ADA, the hotel must not only identify  
 2 but “*describe accessible features in the hotels* and guest rooms offered through its  
 3 reservations service *in enough detail* to reasonably permit individuals with  
 4 disabilities to *assess independently* whether a *given* hotel or guest room meets *his*  
 5 *or her* accessibility needs.” 28 C.F.R. 36.302(e)(1)(ii) (emphasis added to key words).  
 6 Here, plaintiff has been denied the right.

7 36. As for the guestroom itself, Plaintiff found that the hotel only offered a vague  
 8 description of the accessibility features of its guestrooms and found that  
 9 there was insufficient information about the accessible features in the  
 10 “accessible rooms” at the Hotel to permit him to assess independently  
 11 whether a given hotel room would work for him.

12 37. There is no ability to select an accessible room’s details to verify its features,  
 13 but a guest selects a specific room type and is only told that accessible versions  
 14 exist.

15 38. Upon selection of that type, one additional bit of information is provided:

16 Accessible rooms are guaranteed only if inventory is available at time of booking – otherwise it is upon request only

17 ☐ Hearing Accessible room

18 ☐ Mobility Accessible Room with Roll-  
In Shower, Hearing Accessible room

19 ☐ Mobility Accessible Room,  
Tub, Hearing Accessible room

20 39. Upon selecting one of these room types, no additional information is  
 21 provided to the guest. Should a guest want any details about the room they are  
 22 reserving, they are left to look to the general accessibility “tab” outside the  
 23 reservation system and left to wonder if a particular room type has those features,  
 24 or if those features will be adequate. There is no indicator to a guest using this  
 25 reservation system that the information can be found elsewhere.

26 40. The photo below is another potential source of information regarding  
 27 accessibility, found under the guestroom description for Superior Room, Guest  
 28

room, 1 King:

## Superior Room, Guest room, 1 King



Superior Bathroom

Image 3 of 3

Images may not fully represent the room features you booked.

### Room Overview

Superior King

### Beds and Bedding

Maximum Occupancy: 2

1 King

Rollaway beds not permitted

Cribs permitted: 1

Maximum cribs/rollaway beds permitted: 1

Duvet, and Frette luxury linens

### Room Features

300sqft/27sqm

Air-conditioned

This room is non-smoking

### Furniture and Furnishings

Alarm Clock

Safe, in room

Desk, writing / work, electrical outlet

Iron and ironing board

### Food & Beverages

Room service, 24-Hour

Bottled water, complimentary

### Kitchen Features

Mini-refrigerator

### Internet and Phones

### Entertainment

TV features: remote control, 48in/122cm, and flat screen

Plug-In High Tech room

Premium movie channels

Cable/satellite

CNN, ESPN, and HBO

Movies, pay-per-view

Radio

### Accessible Room Features

This room type offers mobility accessible rooms

This room type offers accessible rooms with roll in showers

This room type offers hearing accessible rooms with visual alarms and visual notification devices for door and phone

41. This information is essentially useless. Not only does every photo have a disclaimer that reads that the images may not reflect the room features but, for example, this Guest Room, 1 King, the hotel has a photo of an inaccessible tub but simultaneously states that this room offers mobility accessible rooms and accessible rooms with roll in showers.

42. This lack of information -- and the conflicting information -- created difficulty for the plaintiff and the idea of trying to book this room -- essentially ignorant about its accessibility -- caused difficulty and discomfort for the Plaintiff and

deterred him from booking a room at the Palace Hotel.

43. Plaintiff, like any wheelchair user, simply needs to know some basic information (actual data, not adjectives) about the core features so that he can independently assess whether the hotel room works for him. Those core features for the guestroom itself are simply: (1) entrances; (2) maneuvering space at bed; (3) toilet; (4) sink; and (5) bath/shower. That is it. Five critical areas in the guestroom. Plaintiff does not need an exhaustive list of accessibility features. Plaintiff does not need an accessibility survey to determine if a room works for him. Plaintiff, like the vast majority of wheelchair users, simply needs these handful of areas to be described in enough detail to permit him to independently assess that the room works for him and that he can book with confidence.

44. Here, the hotel only provided the following information regarding accessible guest rooms:

#### **Accessible Room Features**

This room type offers mobility accessible rooms

This room type offers accessible rooms with roll in showers

This room type offers hearing accessible rooms with visual alarms and visual notification devices for door and phone

Lighted makeup mirror

Hair dryer

Robe

Slippers

#### **Furniture and Furnishings**

Alarm Clock

Safe, in room

Desk, writing / work, electrical outlet

Iron and ironing board

#### **Food & Beverages**

Room service, 24-Hour

Bottled water, complimentary

#### **Kitchen Features**

Mini-refrigerator

**Palace Hotel, a Luxury Collection Hotel, San Francisco**

1       45. For the other five core areas: (1) entrances; (2) maneuvering space at bed;  
2       (3) toilet; (4) sink; and (5) bath/shower., the hotel simply does not provide  
3       description or details that would permit plaintiff—or any wheelchair user—to  
4       make an independent assessment about whether it works for them.

5       46. For the doors, Plaintiff simply needs to know if he can get into the hotel  
6       room and into the bathroom. This is a problem that has created tremendous  
7       problems for the Plaintiff in the past. A simple statement that the hotel room  
8       entrance and interior doors provide at least 32 inches of clearance is enough to  
9       provide Plaintiff this critical piece of information about whether he can fit his  
10      wheelchair into the hotel rooms.

11      47. For the bed itself, the only thing plaintiff needs to know (and the only thing  
12      regulated by the ADA Standards) is whether he can actually get to (and into) the  
13      bed, i.e., that there is at least 30 inches width on the side of the bed so his  
14      wheelchair can pull up next to the bed for transfer. This is critical information  
15      because plaintiff needs to pull his wheelchair alongside the bed. Without this  
16      maneuvering clearance, plaintiff is in trouble. Here, the website says nothing about  
17      the accessibility of the bed.

18      48. For the restroom sink, the two things that will determine whether plaintiff  
19      can use the sink from his wheelchair: (1) can he safely get his knees under the  
20      toilet? To wit: does the sink provide the knee clearance (27 inches high, 30 inches  
21      wide, 17 inches deep) and is any plumbing under the sink wrapped with insulation  
22      to protect against burning contact? The second thing is whether the lavatory  
23      mirror is mounted at a height so that wheelchair users can see it. A simple  
24      statement like: “the lavatory sink provides knee clearance of at least 30 inches  
25      wide, 27 inches tall and 17 inches deep, all of the under-sink plumbing is wrapped,  
26      and the lowest reflective edge of the mirror is no more than 40 inches high.” But  
27      here, the hotel reservation website says nothing about the accessibility of the sink.

28      49. For the restroom toilet, plaintiff only needs to know two things that

1 determine if he can transfer to and use the toilet; (1) that the toilet seat height is  
2 between 17-19 inches (as required by the ADA Standards) and (2) that it has the  
3 two required grab bars to facilitate transfer. Here, there is no information about  
4 the toilet at all. Due to plaintiff's profound disabilities, transferring from wheelchair  
5 to toilet is difficult and dangerous for him. He needs a toilet at the correct height  
6 and he needs grab bars.

7 50. For the bathtub, the plaintiff only needs to know a few things: (1) does it  
8 have a tub seat as required by the ADA; (2) does it have the required grab bars on  
9 the walls; (3) does it have a detachable handheld shower spray unit; and (4) are all  
10 the amenities within 48 inches height. Here, though, the reservation website says  
11 nothing beyond declaring the tub "accessible."

12 51. Other accessibility requirements such as slopes of surfaces, whether the  
13 hand-held shower wand has a non-positive shut off valve, the temperature  
14 regulator, the tensile strength and rotational design of grab bars, and so  
15 many more minute and technical requirements under the ADA are beyond  
16 what is a reasonable level of detail and Plaintiff does not expect or demand  
17 that such information is provided.

18 52. But because the Defendants have failed to identify and describe the core  
19 accessibility features in enough detail to reasonably permit individuals with  
20 disabilities to assess independently whether a given hotel or guest room meets his  
21 accessibility needs, the Defendants fail to comply with its ADA obligations and the  
22 result is that the Plaintiff is unable to engage in an online booking of the hotel room  
23 with any confidence or knowledge about whether the room will actually work for  
24 him due to his disability.

25 53. This lack of information created difficulty for the Plaintiff and the idea of  
26 trying to book this room -- essentially ignorant about its accessibility -- caused  
27 difficulty and discomfort for the Plaintiff and deterred him from booking a room at  
28 the Hotel.

1       54. Plaintiff travels frequently and extensively, not only for non-litigation  
2 reasons but also because he is an ADA tester and actively engaged in finding law  
3 breaking businesses and hauling them before the courts to be penalized and forced  
4 to comply with the law.

5       55. As he has in the past, Plaintiff will continue to travel to San Francisco on a  
6 regular and ongoing basis and will patronize this Hotel once it has been  
7 represented to him that the Defendant has changed its policies to comply with the  
8 law and to determine if the Hotel is physically accessible as well as complying with  
9 required reservation procedures. Plaintiff will, therefore, be discriminated against  
10 again, i.e., be denied his lawfully entitled access, unless and until the Defendant is  
11 forced to comply with the law.

12       56. Plaintiff has reason and motivation to use the Defendant's Hotel reservation  
13 system and to stay at the Defendant's Hotel in the future. Among his reasons and  
14 motivations are to assess these policies and facilities for compliance with the ADA  
15 and to see his lawsuit through to successful conclusion that will redound to the  
16 benefit of himself and all other similarly situated. Thus, Plaintiff routinely revisits  
17 and uses the facilities and accommodations of places he has sued to confirm  
18 compliance and to enjoy standing to effectuate the relief promised by the ADA.

19       57. Plaintiff routinely revisits and uses the facilities and accommodations of  
20 places he has sued to confirm compliance and to enjoy standing to effectuate the  
21 relief promised by the ADA.  
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**I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH DISABILITIES**

**ACT OF 1990** (On behalf of Plaintiff and against all Defendants.) (42 U.S.C. section 12101, et seq.)

1. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.
2. Under the ADA, it is an act of discrimination to fail to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford goods, services, facilities, privileges advantages or accommodations to person with disabilities unless the entity can demonstrate that taking such steps would fundamentally alter the nature of those goods, services, facilities, privileges advantages or accommodations. See 42 U.S.C. § 12182(B)(2)(A)(ii).
3. Specifically, with respect to reservations by places of lodging, a defendant must ensure that its reservation system, including reservations made by “any means,” including by third parties, shall:
  - a. Ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms;
  - b. Identify and describe accessible features in the hotels and guest rooms offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs; and
  - c. Reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the guest rooms



requested are blocked and removed from all reservations systems.

*See* 28 C.F.R. § 36.302(e).

4. Here, the defendant failed to modify its reservation policies and procedures to ensure that it identified and described accessible features in the hotels and guest rooms in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs and failed to ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms.

**II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ. Code § 51-53.)

5. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia, that persons with disabilities are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishment of every kind whatsoever within the jurisdiction of the State of California. Cal. Civ. Code §51(b).

6. The Unruh Act provides that a violation of the ADA is a violation of the Unruh Act. Cal. Civ. Code, § 51(f).

7. Defendants’ acts and omissions, as herein alleged, have violated the Unruh Act by, inter alia, failing to comply with the ADA with respect to its reservation policies and practices.

8. Because the violation of the Unruh Civil Rights Act resulted in difficulty and discomfort for the plaintiff, the defendants are also each responsible for statutory damages, i.e., a civil penalty. See Civ. Code § 52(a).



1           **PRAYER:**

2           Wherefore, Plaintiff prays that this Court award damages and provide relief  
3 as follows:

4           1. For injunctive relief, compelling Defendants to comply with the Americans  
5 with Disabilities Act and the Unruh Civil Rights Act. Note: the plaintiff is not  
6 invoking section 55 of the California Civil Code and is not seeking injunctive relief  
7 under the Disabled Persons Act at all.

8           2. Damages under the Unruh Civil Rights Act, which provides for actual  
9 damages and a statutory minimum of \$4,000 for each offense.

10          3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to  
11 42 U.S.C. § 12205; and Cal. Civ. Code § 52(a).

12  
13 Dated: March 4, 2021

CENTER FOR DISABILITY ACCESS

14 By:     /s/ Russell Handy    

15 Russell Handy

16 Attorney for Plaintiff  
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